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IN THE

SUPREME COURT OF THE UNITED STATES

1979 Term

No. 79-6489

MILLICENT LINDEN,

Appellant,

- v -

STATE OF NEW YORK

ON APPEAL FROM THE COURT OF APPEALS
FOR THE SECOND CIRCUIT

JURISDICTIONAL STATEMENT

Millicent Linden
Appellant, pro se
500 East 74th Street
New York, N.Y. 10021
(212) BU.8-9453

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No. 79-6489

MILLICENT LINDEN,

Appellant,

v.

STATE OF NEW YORK

ON APPEAL FORM THE COURT OF APPEALS
FOR THE SECOND CIRCUIT

JURISDICTIONAL STATEMENT

Appellant appeals from the judgement of the Court of Appeals for the Second Circuit entered in the clerk's office on the 25th day of March, 1980 affirming the lower court's dismissal of the above-titled action witnout opinion with the Appeal's Court judgement; oral argument in the Second Circuit Court was held March 24, 1980; the Appeals court affirmed the District's court dismissal of plaintiff
tiff's action without ever acknowledging the issues in the Complaint without ever referring to any part of the issues in the Complaint at any time, issues which concern life-threatening injuries and deprivation of fundamental Constitutional mandates of the 14th Amdnement due process, the claim under 42 U.S.C. #1983 and this

Court's statement in Adickes v. S.H. Kress & Co. 398 U.S. 144 (1970) referring to the terms of #1983; plaintiff submits this statement to this Court to show that this Court has jurisdiction of the appeal and that the issues and questions are more than substantial, that there are fundamental issues within an unprecedented set of circumstances which only this Court can resolve to properly serve justice.

CITATION TO OPINIONS BELOW

No court ever rendered ANY opinion pertaining to the issues at any time, issues that are based on documented proof of deliberately intended physical injury, deliberate false statement of expert witness' testimony, deliberate submission of a false court order, deliberate misrepresntation of the stated facts in the complaint; the Eleventh Amendment was cited in the District Court dismissing the action agasinst the defendant; the Elveventh Amdendment clearly states and refers to "Citizens of another State or by Citizens of a Subjects of a Foreign State"; both plaintiff and defendant are within one State, the State of New York for which the Eleventh Amdndment does not apply; the Fourteenth Amendment of due process for redress of grievances does apply literally in every perspective as the record proves utter violation of due process and that the laws of the land take precedence over the actions of the State where the violation of the 14th Amdndment took place.

JURISDCITION

Prejudices or Race, Color, Creed and Sex are well-known and well-covered in the annals of history, in books of law and in social intercourse. There are no statutes pertaining to pro se prejudice and no protection from violation of Constitutional mandates from those sworn to uphold the law. Circumstances left no alternative but to proceed pro se in Forma Pauperis for plaintiff; the circumstances surrounding the events of that process are unprecedented and of EIGHT YEARS duration in which life and liberty have been and are in constant threat, the life and liberty guaranteed by our forefathers for each and every individual, independent or not.

No STATE Court adhered to any law, either State or Federal regarding plaintiff's rights under the law. No District Court responded to the violation of plaintiff's State and Federal rights under the law in the Civil Rights Act and in Constitutional mandates; no Federal Appeals court replied to the request to discuss the issues, affirming, instead the lower court without accompanying opinion. The JURISDCTION of this Court is conferred by 14th Amendment of due process, the Civil Rights Act, the terms of #1983 and this Court's announcement of June, 1978 of "..changing your minds and decided to remove that immunity where it can be shown that a City or State' policies violate the Constitution." The City and State courts have violated plaintiff's Civil Rights Act and the Constittion's 14th Amendment, thus, in dismissing plaintiff's action in the Federal court and affirmed by the Second Circuit without due process on hearing the issues and pleading the Eleventh Amendment which does not apply in fact, jurisdiction clearly lies with this Court to hear and resolve these very substantial issues, which lies at the very heart of the raison d'etre of the court system and the the Constitution that brought it forth.

QUESTION PRESENTED

Do documented, proven facts on record, legal facts of merit of cause of action and testimony and procedure, take precedence over court power used for personal prejudice, or does the Fourtheenth Amendmenttake precedence over personal prejudice against pro se appearance granted court order to proceed in Forma Pauperis take precedence over the Fourtheent Amendment, the Civil Rights Act, this Court's 1970 terms of #1983 and 1978 decision on precluding immunity where there is clear violation of the Constitttion?

CONSTITUTIONAL PROVISIONS PROVIDED INVOLVED

Fourteenth Amendment of the United States Constittuion

STATUTORY PROVISIONS PROVIDED INVOLVED

Civil Rights Act of 1871 codified by U.S. C.A. 1983:

> "The terms of #1983 make plain two elements that are necessary for recovery. First, the plaintiff must prove that the defendant has deprived him (her) of a right secured by the 'Constitution and Laws' of the United States. Second, the plaintiff must show that the defendant deprived him (her) of this constitutional right 'under color any statute, ordinance, regulation, custom or usage of any State or territory.'" at 150.

The original record documents the fact that plaintiff was deprived of due process mandated in the Fourtheenth Amendment of the Constitution; the State courts falisified facts in and on the record in the court files and the Federal court denied any hearing on the issues; the issues in plaintiff's COMPLAINTS were NEVER adjudicated at any time and all State Appeals courts denied leave to appeal. The Fourteenth Amdendmant states "Nor shall any State deprive any person of life, liberty or property without due process."

STATEMENT OF THE CASE

The court cases involved are the following:

			State
1.	LINDEN v. DAVID FOX & SAMUEL GRAFF	42789/77	- N.Y. Supreme Court
2.	LINDEN v. NATHAN A. SHORE	1082/7[illegible]	" to NYC Civl Court
3.	LINDEN v. NATHAN NOVICK	3568/75	" " " " "

Plaintiff quotes all facts directly from the original record and submits this appeal on the original records in each case.

Case numbered 1: Defendants are attorneys who submitted a false court order; Hon. George Postel, sitting in Motion Court in the Supreme Court of the State of New York states above his fully written signature that the did not rule on the motion by defendants becasue the case was transferred to the Civil Court of the City of New York before he could get to it. Defendants submitted an alleged court order by Judge Postel with only initials and no record entry at the exact time of Calendar call on the day scheduled for trial and the bench there, Berarnd Weiss, accepted the alleged order without hearing plaintiff on any account, there was no record of i

Case numbered 2: The trial bench falsified the testimony of the expert witness; the expert witness, director of the facial pain and jaw joint dysfunction clinic at Columbia Presbyterian Hospital diagnosed acute and chronic jaw joint dysfunction and severe facial pain in the immediate area, positively identified X_rays taken directly before injury and right after injury with special sophisticated specialist X-raus specifically for that delicate area of the body as belonging to plaintiff, described treatment, the inability to bite or chew or open the mouth, and the continuing pain from the time of injury March 22, 1972; the trial bench dismissed the case without submitting to jury on the allged grounds that the expert witness "MADE NO DIAGNOSIS WHATSOEVER"

Case number 3: Defendant under oath in previous action in the course of examination admitted in his testimony that he injured plaintiff deliberately with intent to maim severely and seriously misaligning the pelvis causing emergency conditions daily for more than 3 years after the injury on September 17, 1974 while treating cervical spasms routinely for more than a year three times weekly without announcement and deviating from regular treatment, misaligned the pelvis, he did not believe in human symmetry and plaintiff showed unprecedented development from her own professional work which was in contradiction to tradtional practices held by defendant. No court ruled on the new evidence obtained in the first case and denied jury trial on the full merits, one motion court bench vehemently blurting in chambers and privacy therein to GO TAKE UP SOME RELIGION, LAWYERS GOT TO LIVE, (Judge Seymour Shcwartz" and thereafter denied each and every motion submitted by plaintiff and referred to him by other benches each time. Plaintiff's file record was kept in chambers out or reach there and in the law library on the 10th floor alos out of reach to pro se litigant.

The foregoing facts are but part of a very long list of a host of violations of plaintiff's legal rights under any law; plaintiff does not clutter up this submission with documented records that are physically so voluninous that certainly plaintiff could not life the smallest portion of the and the rest which would amount

to many yards thick when placed at length next to each other.

Facts also interrelate; for example, Case numbered 1 was brought against the lawyers who represented case number 3, but the N.Y. State Motion Court dismissed case numbered 1 alleging that the action was against case numbered 3.

Judge Manueal Comex in the N.Y. State Supreme Court requested itemized list of grievances against David Fox and Samuel Graff saying that there was more than one cause of action. Judge Charles Greenfield in the N.Y. State Supreme Court repsonded to defendants' legal representatives who only asked for numbered sub-paragrapsh in plaintiff's numbered list of each specific grievance; Judge Greenfield dismisses the action on the alleged grounds that plaintiff sought to re-instate the action against the doctor, when neither defense nor nor plaintiff ever mentioned such a request remotely. The Appellate Division deneid leave to appeal and even gave advixe to experienced counsel representing lawyers to pursue a CPLR number and when documented proved it to be inaccessible legally on the bsis of fact, the Appellate Division merely ruled that it would not rule on the facts "sua sponte".

The New York State Court of Appeals deneid leave to appeal in each and evey casebecause each lower court deneid permission to appeal.

Appeals to peripherial institutions as the Office of Court Administration brought unexpected reaction as in that of John Ray who undertook to intercept a Registered letter to Judge Bartlett, Administrative Judge, telling his secretary that it was only a " Xerox copy" and threw it away when I produced an exqct carbon copy of the original no one would pursue the matter further. The same Mr. Ray kept throwing away all the court copies he ostenisbly said he would look at, and when questioned as to their whereabouts, that it was costly to keep submitting repeatedly, he was about to physically remove plaintiff before another attorney out of his own office, that is out of Mr. Rayds office and in the office of another attorney whom plaintiff sought to seek aid, and whm he raised his hand to strike, had he was reminded of the consequences of phsyical assult, he

lowered his hand, alleged he would "look into the matter" and, of course, followed his past pattern and did not. The other organizations followed the same pattern as well: the Grievance Committe having proven documentation of false court order by members of the Bar alleged there was no evidence; the State Investigatory Office did not respond to the request for aid; the N.Y. Attorney General of the State of New York, refused to reply to any of many letters and documents sent to them for action.

NO STATE OR CITY COURT IN THE STATE OF NEW YORK EVER RULED ON ANY ISSUE IN ANY COMPLAINT IN ANY CASE OF ACTION INSTITUTED BY PLAINTIFF AT ANY TIME.

Plaintiff's efforts were considerable and at Great sacrifice to life and limb in the circumstance and medical conditions reported by all doctors and hospitals from 1972 on, with the most recent, dated July 3, 1979, stating that plaintiff has severe pelvic and spinal malalignment with residual muscle spasms throught the entire spine with a history of temporomandibular joint dysfunction (jaw joint injury)

No effort ever brought about any adjuication.
in any court.

THE QUESTION PRESENTED IS OVERWHELMINGLY SUBSTANTIAL

Shall justice prevail or shall the abuse of power prevail?

That there has been grave harm done to both life and liberty is undeniable and fully documented in the record.

There is the biological need to protect life; and plaintiff's life threatened by professionals' injury isproperly redressed in the courts; there is the right, not only the need for justice, but the legal right to justice. The power exerted by the courts upon plaintiff paralleled a heaving anvil bearing down physically; continual lowering of that anvil inevitably brings about a surfeit and more of intolerable thrusts upon the whole person, the threat to life,

the threat to liberty, the threat to the most fundamental dignity of the very breath of life and liberty. One may do without many comforts in life and even without basic needs for a long while, but at no time any man human being, any life form itself, ever be without the most fundamental right, that of dignity, the dignity of life No one can be divested of that right and the courts have exerted every fraction of their power to do so.

It is not mere coincidence that our forefathers equated life and liberty in one phrase, in one breath of voice, for denying one is denying the other; the harm and the hurt is as real as real as any physical touch or sight or smell or sound is to any one. Every indiivdual has an innate sense of dignity, of feeling, of being in the same life-boat on the earth planet swimming in space. Yet the courts approached plaintiff's efforts to be heard, to be ruled on the facts, on the merits of the facts, in the manner of punishing plaintiff, more as a criminal than a victim of physical injury and denial of fundamental Constitutional rights. That is indded adding salt to the wounds literally. It is even twisting the sword in the wound to go deeper within and cut more excrutiatingly.

There is serious matters in thethreat to life and far from "frivolous" or "litigious" as argued, and the contention that there must be an end to "litigation", the answer to that is that there has not been Any litigation, that it has been always and only one sided, that there are many cases on record that go on far longer without dissent from the courts and in any event, how can thw wist to have plaintiff just "melt into the woodwork" so to speak compare with the horrendous struggle for life itself, does the oppositon and the do the courts contend that the end is to life itself also? to suit their convenience? It would hardly be the case or the argument were the circumstances reversed and the opporssors were faced with the same set of facts now thrust upon plaintiff.

The amount of grievances and the weighty element of effort and time and search for justice may well be entirely unprecdented and unchecked could well be a mounting, growing problem at large.

Annexed hereto is a copy of a public report of the case of Sam Thompson v. City of Lousiville argued before this Court by the former law clerk to Justice Harlan Stone, Mr. Louis Lusky. This Court ruled for the defendant against the City of Lousiville; all justices joined in a single opinion, and that opinion established a legal precedence: it is unconstitional to convict a man without eivdeace. It is equally uncosntitutional to punish a civil litigant who has evidence which is denied in the courts, and which is the fact in the instant matter. The pro se litigant is as helpless as plaintiff Sam Thompson was in that suit of circumstances where his one "crime"was that he did a "shuffle dance" while waiting for a bus on a cold night who broke no laws but was presumed to be a "minor nuisance". The plaintiff was denied and deprived of his rights under the Fourteenth Amendment of the Constitution; plaintiff has also been denied and deprived of her rights under the Fourteenth Amendment of the Constitution.

THE STATE COURTS AND THE FEDERAL DISTRICT & APPEALS COURTS HAVE DENIED AND DEPRIVED PLAINTIFF OF THE RIGHTS IN ALL LAWS BASED UPON BIAS, PREJUDICE AND HELPLESS POSITION OF THEPRO SE LITIGANT, THEREFORE, IT IS A CONSTITUTIONAL MATTER AND FEDERAL RIGHT TO PRESENT THE FOREGOING CLAIMS TO THE ONLY COURT WHICH HAS THE JURISDICTION TO ENTERTAIN THEM - THE UNITED STATES SUPREME COURT.

CONCLUSION

The questions presented by this appeal are unassaibly substantial and require plenary consideration by this court for their consideration.

Dated: April 2, 1980
New York, N.Y.

Respectfully submitted,

Millicent Linden
Appellant, pro se
500 East 74th Street
New York, N.Y. 10021
(212) BU.8-9453

To: Solicitor General
Washington, D.c.

Attorney General State of N.Y.
Two World Trade Center NYC 10047

79-7812

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

MILLICENT LINDEN,

Plaintiff-Appellant,

- v -

STATE OF NEW YORK,

Defendant-Appellee.

79 - 7812

79 Civ. 1913 (WK)

NOTICE OF APPEAL

S I R S :

PLEASE TAKE NOTICE that the above named plaintiff-appella Millicent Linden, hereby appeals to the UNITED STATES SUPREME COURT Washington, D.C. 20543, from the order of the UNITED STATES COURT O APPEALS FOR THE SECOND CIRCUIT, Foley Square, New York, N.Y. 10007, in this action entered in the office of the clerk on the 25th day o March, 1980, and Oral Argument on the 24th day of March, 1980.

Dated: March 27, 1980
New York, N.Y.

Yours, etc.,

Millicent Linden
Plaintiff-Appellant
500 East 74th Street
New York, N.Y. 10021
(212) BU.8-9453

To: Attorney General of the
State of New York
Two World Trade Center
New York, N.Y. 10047

Office of the Clerk
U.S. Court of Appeals for the Second Circuit
Foley Square, New York, N.Y. 10007

Mrs. Olga Valentine, Director
Pro Se Office
U.S. Court of Appeals for the Second Circuit
Foley Square, New York, N.Y. 10007

A. Daniel Fusaro
Clerk

31 MAR 1980

United States Court of Appeals

FOR THE

SECOND CIRCUIT

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse in the City of New York, on the twenty-fifth day of March one thousand nine hundred and eighty.

79-7812

UNITED STATES COURT OF APPEALS
FILED
MAR 25 1980
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

Present:

HONORABLE IRVING R. KAUFMAN,
Chief Judge.

HONORABLE THOMAS J. MESKILL,
Circuit Judge.

HONORABLE CHARLES L. BRIEANT, JR.,
District Judge sitting by
~~Circuit Judges,~~ designation

MILLICENT LINDEN,

Plaintiff-Appellant,

v.

STATE OF NEW YORK,

Defendant-Appellee.

79-7812

Appeal from the United States District Court for the Southern District of New York

This cause came on to be heard on the transcript of record from the United States District Court for the Southern District of New York, and was argued by counsel.

ON CONSIDERATION WHEREOF, it is now hereby ordered, adjudged, and decreed that the judgment of said District Court be and it hereby is affirmed on the opinion of Judge Knapp.

IRVING R. KAUFMAN, Chief Judge.

THOMAS J. MESKILL, Circuit Judge.

CHARLES L. BRIEANT, JR., District Judge.

MICROFILM
JUN 6 1979

Affirmed

U.S. DISTRICT COURT
FILED
JUN 6 1979
S.D. OF N.Y.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MILLICENT LINDEN : 79 Civil 1913 (WK)

Plaintiff :

-against- :

STATES OF NEW YORK : JUDGMENT

Defendent :

The defendant having moved the Court to dismiss on the ground that the Eleventh Amendment bars the suit, and the said motion having come on before the Honorable Whitman Knapp, United States District Judge, and the Court thereafter on June 1, 1979, having handed down its memorandum denying plaintiff's request for oral argument, and dismissing the complaint, it is,

ORDFRED, ADJUDGED and DECREED: That the complaint be and it is hereby dismissed.

Dated: New York, N.Y.
June 6, 1979

Raymond F. Burghardt
Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MILLICENT LINDEN,

Plaintiff,

- against -

STATE OF NEW YORK,

Defendant.

COPY

MEMORANDUM AND ORDER

79 Civ. 1913

KNAPP, D.J.

In this pro se action, plaintiff Millicent Linden seeks damages for alleged deprivations of her civil rights. The only defendant is the State of New York. The State has moved to dismiss the complaint on the ground, among others, that the Eleventh Amendment bars the suit. We agree and grant the State's motion. Since we find no conceivable basis for a contrary view, we deny plaintiff's request for oral argument on the motion.

SO ORDERED.

Dated: New York, New York
May 30, 1979.

WHITMAN KNAPP, U.S.D.J.

Plaintiff's Supplemental Brief: The Eleventh Amendment cannot apply herein since the issues are all "in state"; the 14th Amendment takes precedent as a fundamental right to be heard in redress without denial of Civil Liberties; it is a matter of record that plaintiff's brief had not been read; - the facts were unknown to the listening panel, and defendant made no rebuttal to plaintiff's argument of false court orders, etc. and offered no other areguments in opposition to Oral Argument. No opinion were rendered with the affirmation of the lower court by the Court of Appeals. The fact is filed in the annexed docket sheet. Issues in the Complaint were never mentioned or ever referred to in any manner by any court at any time,

with intent to maim, explicity stated on the witness stand by

ORIGINAL

79 CIV. 1913

JUDGE KNAPP

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MILLICENT LINDEN
-v-
STATE OF NEW YORK

ORDER

FILED
U.S. DISTRICT COURT
S.D. OF N.Y.
APR 12 9:32 AM '79

Upon reading the annexed affidavit or attestation of poverty of MILLICENT LINDEN requesting permission to have this complaint docketed without prepayment of fees and costs or security therefor, and it appearing to the court that this application should be granted, plaintiff is hereby permitted to proceed in forma pauperis in accordance with Title 28 United States code, Section 1915(a).

SO ORDERED.

Chief Judge David N. Edelstein
U.S.D.J.

Dated: New York, N.Y.
APR 5 1979

MILLICENT LINDEN,
Plaintiff,
v.
STATE OF NEW YORK,
DEFendant.

caption

United States District Court

FOR THE

SOUTHERN DISTRICT OF NEW YORK

Affidavit in Support of Motion In Forma Pauperis

I, Millicent Linden being first duly sworn, depose and say that I am the plaintiff in the above-entitled case; that in support of my motion to proceed without being required to prepay fees, costs or give security therefor, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor; that I believe I am entitled to redress; and that the issues which I desire to present are the following: plaintiff has been consistently and persistnomtly denied fundamental due process in accordance with the 6ur CONSTITUTION'S 14th Amendment by submitting falwe court orders, ruling on pon-existent issues, and non-existant court orders dismissing plaintiff's malpractice suits threatening life and liberty.

I further swear that the responses which I have made to the questions and instructions below relating to my ability to pay the cost of prosecuting the appeal are true.

1. Are you presently employed?

☐ YES ☒ NO

a. If the answer is yes, state the amount of your salary or wages per month and give the name and address of your employer.

b. If the answer is no, state the date of last employment and the amount of the salary and wages per month which you received. plaintiff had been free-lancer independnent researcher, singer, dancer, lecturer prior to injury in 1972 and living on public disability assistance since then on $64195 semi-monthl copuy annexed herein.

2. Have you received within the past twelve months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, or other source?

☐ YES ☒ NO

a. If the answer is yes, describe each source of income, and state the amount received from each during the past twelve months.

3. Do you own any cash or checking or savings account?

☐ YES ☒ NO

a. If the answer is yes, state the total value of the items owned.

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)?

☐ YES ☒ NO

a. If the answer is yes, describe the property and state its approximate value.

5. List the persons who are dependent upon you for support and state your relationship to those persons. none

I understand that a false statement or answer to any questions in this affidavit will subject me to penalties for perjury. I declare the foregoing to be true and correct.

SIGN ▶ Millicent Linden Date: March 26, 1979

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The High Court and "Shufflin' Sam"

By Joseph P. Blank

"The finest of American traditions was fulfilled when the Supreme Court took time to hear the petition of a man to whom others had turned a deaf ear."

Indianapolis Star.

Until the last hour of the session, Monday, January 11, 1960, was a routine day in the great marble-and-mahogany courtroom of the Supreme Court of the United States. Since Monday is "decisions" day, the Court first delivered opinions on cases argued at previous sessions. Then the nine black-robed justices alerted themselves to hear arguments in new cases. Chief Justice Earl Warren said, "*Sam Thompson v. City of Louisville.*" Thompson's attorney, 45-year-old Louis Lusky, former law clerk to the late Supreme Court Justice Harlan F. Stone, rose to address the bench.

Lusky was one of the few people who had believed that Sam Thompson's case could be brought to the Supreme Court. In one long legal leap he had carried his client's problem from a police court, the lowest court in Kentucky, to the nation's highest court. The case involved a fine of $10 on each of two convictions. The last time the Supreme Court had accepted so seemingly trivial a case was in 1886.

But the fines were not the true issue. "The time has not yet come when Americans can be dealt with as economic men. Their needs and rights are not measurable in purely monetary terms," Lusky had written in his brief to the Court, asking to be heard. "One of their needs is justice, and in this country they have a legal right to receive it." Although the Justices had refused to hear many cases in this term because the issues did not involve the Court's interpretation of the Constitution, they had agreed that a Constitutional question hung over Sam Thompson's convictions.

The 46-year-old petitioner was a general handyman in Louisville. Slim, dignified, with direct eyes, he lived alone in a small house in the suburbs. His income came mostly from odd jobs, like painting and carpentry. His problems grew out of his frequent arrests on charges of loitering, vagrancy, or disorderly conduct.

Sam Thompson had always felt overwhelmed by the towering authority of the police. But after his most recent arrest for disorderly conduct, he decided that he had taken enough. "If you are being continually beaten on the shoulder," Sam explained, "that shoulder gets tired after a while. I felt something should be done about it."

From jail he telephoned Dr. Wynant Dean, for whose family he had worked off and on for thirty years, and asked for help. Dr. Dean called attorney Louis Lusky. After talking with Sam, who insisted that he wasn't guilty, Lusky appeared at the police-court hearing and demanded a trial for his client.

Before this trial, however, Sam got arrested again, this time while sitting in a bus station, waiting to take a bus home. He was charged with vagrancy and loitering. The police-court judge heard testimony and found Sam guilty.

Lusky insisted that the facts proved his client innocent, and demanded the right to file an objection to the decision. The prosecutor opposed Lusky's motion with an unwitting prophecy about subsequent events: "He wants to make a federal case out of it, and this is nothing but a two-bit case." The judge fined Sam $20 for loitering and gave him thirty days in jail for vagrancy. Lusky appealed the case and obtained a jury trial in another court, where Sam was quickly acquitted.

To keep him out of any more trouble, Lusky advised his client to stay away from the bus station. Ten days later Sam was in the Liberty End Cafe waiting for his bus, which stopped at a nearby corner. To pass the time he put a coin in the jukebox. As the music blared, he shuffled a foot to the rhythm. In walked two policemen. They accused him of hanging around and dancing in an establishment that had no license for dancing, and arrested him for loitering. When Sam protested the arrest, the police added a charge of disorderly conduct.

At the police-court trial, the judge fined Sam $10 on each charge. In Kentucky there is no appeal for fines below $20, and thus no legal machinery existed for taking the case to a superior court in the state. Lusky made a motion to dismiss the case. The judge overruled him. He made a motion for bail. Overruled. He made a motion for a new trial. Overruled.

Lusky spoke to Sam. "If it's neces-

Joseph P. Blank is a roving editor for Reader's Digest. *He lives in Yorktown Heights, New York.*

sary, I'll go the limit—to the U.S. Supreme Court. Are you agreeable?" Sam said he was.

When Lusky announced in court that he intended to appeal the case to the Supreme Court, other lawyers there laughed derisively. But the attorney was on sound legal ground. Under federal statutes the Supreme Court may review "final judgments or decrees rendered by the highest state court in which a decision could be had." In this case, the highest such court was the lowest, the police court.

Lusky said later, "My client had been deprived of his rights under the Fourteenth Amendment of the Constitution, which says, 'Nor shall any State deprive any person of life, liberty, or property, without due process of law.' I had to do everything possible to restore these rights to him."

The judge agreed to suspend the execution of Sam Thompson's sentence for the legal limit of twenty-four hours. This gave Lusky just one day to obtain court action for a longer suspension of Sam's sentence, which would provide time to present the case to the Supreme Court. Once the fine was paid or the jail sentence served, the attorney knew, the case would be finished, and the Supreme Court would not consider it.

Lusky quickly went to the circuit court of Jefferson County and laid out his case in request for a suspension of sentence. On the twenty-third hour Judge Lawrence S. Grauman announced his decision: "The petitioner has a federal constitutional right to present his claims to the only court which has the jurisdiction to entertain them—the United States Supreme Court." Judge Grauman granted a ninety-day stay.

Now Lusky, with his associate Marvin Morse, submitted papers to the Supreme Court, arguing that it should hear the case. Analyzing the legal issues, the attorney said:

"The hurt done by a denial of justice is not easy to describe, but it is nonetheless real. A man's innate sense of dignity, his conception of himself as a person unique yet part of a community, his feeling of proud security in the impartiality of the law—impairment or destruction of these values cannot be measured in money. Yet such a hurt can shatter a man. And that is the hurt which is done when justice is denied."

After studying the records and briefs submitted by both sides, the Supreme Court decided to hear the case.

No one except the Justices knows precisely why the Court agreed to look into Sam Thompson's case. Implicit in the decision was acknowledgment of a growing problem in many parts of the country where police use the disorderly conduct, loitering, and vagrancy laws to arrest persons not for breaking the law but simply for being a minor nuisance.

When Lusky stood before the Court to launch his arguments, he was permitted only a few sentences before the Justices began throwing questions at him and at Herman E. Frick, counsel for the city of Louisville. They queried Lusky about his motive in bringing the case to the Supreme Court. "The compelling reason," Lusky said, "is that it's the only practical way of preserving the rights of my client."

Frick, an able attorney, had a hard time. One of the alleged reasons for Sam's arrest was that "he could not give a satisfactory account of himself." Justice Felix Frankfurter said, "Would it not have been within Thompson's Constitutional rights to tell the interrogating officer, 'It's none of your business what I'm doing'?" Frick made no reply.

"Is a man guilty of disorderly conduct and loitering," asked Justice Charles E. Whittaker, "simply because he shuffles his foot to music as he waits for a bus on a cold winter night?"

"That's very dramatic," Frick said, "but he was doing a shuffle dance."

Justice Potter Stewart interjected: "What is a shuffle dance?"

Frick pondered this, then said, "It's some form of dancing which uses a system of shuffling."

Justice Frankfurter asked, "Is shuffling illegal in Louisville?"

"No, sir, but the tavern owner's license did not permit dancing," Frick said, "and the license holder is responsible."

If so, and if Thompson was actually dancing, Justice Frankfurter implied, then the city of Louisville should have charged the tavern owner, not Thompson.

Examining the disorderly-conduct charge, Chief Justice Warren asked Frick, "Do you really put a man in jail for arguing with a police officer?"

"That's what happened in this case, your honor."

Justice William J. Brennan, Jr., wanted to know when an argument becomes disorderly conduct.

"Any argument tends to lead to disorder," Frick replied.

"You are making an argument now, aren't you?" Justice Brennan pressed. "Do you see any signs of disorder?"

The Court, interested in the implications of the case, allowed arguments to extend beyond the allotted time of one hour and continued its questioning on the following afternoon.

On Monday, March 21, 1960, ten weeks after hearing the Thompson case, the Supreme Court read its decision. Justice Hugo L. Black wrote and delivered the unanimous opinion of the Court.

In an eight-page, carefully reasoned document he said: "There is simply no semblance of evidence" to support the charge of loitering. The charge of disorderly conduct for arguing with the police was without legal foundation. "Thus we find no evidence whatever in the record to support these convictions." He reversed the Louisville police-court convictions.

Of all the cases involving a Constitutional issue in the 1959-1960 Court term, *Sam Thompson v. City of Louisville* was the only one in which all nine justices joined in a single opinion. And that opinion established a legal precedent: it is unconstitutional to convict a man without evidence.

Sam Thompson wasn't much awed by the fact that his case had made legal history. "It just made me feel good to know that my rights were being taken care of," he said.

It made a great many other people feel good too. Grenville Clark, one of the great lawyers of our time, told Lusky: "You deserve a couple of medals for what you did in this case." Erwin N. Griswold, dean of Harvard Law School, said, "This is a real contribution to the law. All of us who are interested in justice are greatly indebted to you." Dozens of Louisville attorneys congratulated Lusky.

The Louisville *Courier-Journal* said, "The case of Sam Thompson may mean much to future Sam Thompsons, who never again will be quite as defenseless before hasty policemen and indifferent prosecutors as they have been heretofore." The Boston *Herald* heard the sweet music of liberty in the Supreme Court decision and editorialized, "We are, in a manner of speaking, shuffling our feet in rhythm to a great pervading melody to be heard about this land."

To Sam Thompson, the melody has a highly personal meaning. "When I see the police now," he says, "we say hello to each other, and that's all." □

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ILLUSTRATED BY CHADY SCHAEFFER

UNITED STATES DISTRCIT COURT
SOUTHERN DISTRICE OF NEW YORK
----------X

MILLICENT LINDEN,

Plaintiff,

-against-

COMPLAINT

THE STATE OF NEW YORK,

Defendant.

----------X

Plaintiff's full name and address is:

Millicent Linden
500 East 74th Street
New York, N.Y. 10021
(212) BU.8-9453

Defendant's full name and address is:

The State of New York
New York Attorney General
Two World Trade Center
New York, N.Y. 10047

Plaintiff takes this action against the defendant named above because defendant has persistently denied plaintiff due process in accordance with our Constitution's 14th amendment in malpractice suits brought in the state courts.

Jurisdiction lies in this court because both plaintiff and defendant are within this court's district, and because the laws of the land in accordance with out founding fathers ACTS OF CONGRESS established in the CONSTITUTION supercede the violation of these laws and acts of Congress takenby the states.

Plaintiff had sustained two injuries, (jaw and pelvic joints) one in professional negligence and the other in willfull misconduct with intent to maim, explicity stated on the witness stand by

the defendant himself of having done so; counsel for the latter defendant submitted false court orders to deny plaintiff trial by jury.

Plaintiff brought a third malpractice, legal, against the representing lawyers for the above cited defendant which was also denied trial by jury in the state courts by dismissing it on an issue not in the complaint and violation of state laws requirements.

The first action (jaw joint injury) (TEMPOROMANDIBULAR JOINT DYSFUNCTION) claimed a recovery awared of $500,00.oo; the second injury (pelvic joints) claimed recovery award of one and one-half million dollars; the third suit of legal malpractice claiemed the recovery award of $900,000.oo.

The recovery awrd claimed in this action is for the sum total of the above in the amount of one million and nine hundredd thousand dollars (1,9000,000.oo).

Plaintiff deamnds a trial by jury.

The index number of the first suit (jaw joint) begun in the Supreme Court was 41666/76 and transferred to the Civil Court under Index number 1082/76.

The index number of the second suit (pelvic joint) begun in the Supreme Court of the State of New York was 41674/76 and then transderred to Civil Court of the City of New York under index number 3568/76.

The inddx number of the third suit (legal malpractice) is 42788/77.

Bias and undue physical harship and distress was brought

to bear upon plaintiff in the TMJ (jaw joint suit in both the Supreme Court of the State of New York and theCivil Court of the City of New York.

- pl. was denied protective order to examine teeth when medical and hospital records showed inability to open the mouth; three examinations were ordered by the courts each time defense demanded a new examination because plaintiff could not open the mouth from the injury to the jaw joint and pl. was unable to eat even taking liquids through a straw was painful and disturbing
- defense demanded more than 2 years of adjournments and delays in trial dates causing extreme physical hardship on undue appearances sanctioned by the court benches, the adjournments going past the statutes of time;
- trial by jury was demanded and denied plaintiff
- plaintiff's expert witness diagnosed a jaw joint dysfunction, injections right into the jaw joint itself, acute pain and spasm in the muscles areas immediately surrounding the jaw joint, describes treatments for it, identifies X-rays taken just before injury by defendant on consultaion date with defendant with a mouth opening of 40 millimeters, all medical texts, including defendant's noting that averages mouth opening i s45 mm, and X-rays taken after injury noting a 15 mm mouth opening, and a 9 mm mouth opening five years later by the treating doctor and also plaintiff's expert witness, in the same specialty of defendant's and clinci director of jaw joint and facial pain in the Columbia Presbyterian hospital;
- Trial bench in Civil Court against the documentation of the transcripts of the minutes taken by the reporter alleges plaintiff's expert witness did not diagnose TMJ or facial pain dysfunctions, states he could not handle the trial, beahved badly, said he would grant defense attorney anything he asked for, sustained all his bojections, and dismissed plaintiff's case without submitting to the jury on the grounds that the expert witness did not diagnose TMJ and facial dysfunctions which is is direct contradiction to the facts on record and denied plaintiff the right to trial by jury.
- The trial bench also denied plaintiff continuance due to physical distress and physical limitations, also in documentatiom in the transcripts.

In the second t, injur[illegible] to the pelvic joints, lawyers representing the defendant submitted an alleged court order to strike plaintiff's case off the calendar; the sitting motion court

before whom defendant's motion appeared stated in writing above his signature that he had not ruled on defendant's motion to strike plaintiff's case off the calendar.

No bench thereafter would restore plaintiff's action to the calendar and deneid plaintiff a trial by jury illegally.

The defendant's actions were admitted and a jury trial with the evidence before it in legal documentation from the record would have made a decision bupon those facts and upon those facts the recovery award had a more than favorable possibility.for plaintiff who could no longer work, had been a free-lance researcher, singer, dancer, lectuer, writer of said research, etc. and whose books are found in the New York Academy of Medicine, the New York Public Library, libraries across the nation in universities, readers across the country and around the world, had no means other than the vitality which is the capital of any free-lancer without any independent assets or income, and promoting an original program without them means economic deprivation, and without monies for treatment, is in deep debt and dependent upon a continuing patience in the only effective treatment in the life-threatening circumstances and which is now being threatened with debt accumulating and patience being tried and treatments threatened because plaintiff was denied trial by jury and any recovery award with whhh to pay for long-standing treatments of more than six years.

In the third suit againstthe representing attorney for the defendant cited above in the pelvic injury suit, the Supreme Court of the State of New York in one instance of a sitting motion court writes in a Settle Order that plaintiff had more than one cause of action, to itemize the complaint more fully and specifically, giving

the CPLR number to which to respond of the requirements; attorneys representing the defendants, instituted another motion demanding enumeration of sub-paragraphs of the numbered paragraphs which had been itemmied as required and resorded to in compliance by plaintiff, a normal, logical procedure in writing to not crowd sentences into one whole, continuaour page without prargrapsh and listing the specific complaint items under the specific number for each complaint.

Defense wanted numbers for the numbered items with sub-paragraphs. The sitting motion court bench dismissed plaintiff suit on the alleged grounds that plaintiff was seeking to re-institute another, a different action, namely the one the defendants had represented.

Not even defense attorneys made any such allgation and never did at any time in allthe appeals that followed, but each and every court affirmed the unwarranted allegation of seeking re-instatement a previous actionnowhere mentioned anywhere by anyone at anty time,and the dismissal was uphold without ground on record and thus denying plaintiff due process in a trial by jury.

Annexed herein is a copy of the orders from the Court of Appeals in Albany, New York of the State of New York, denying plaintiff's appeals on the grounds allegedly that appeals"do not lie".

The documentations in the record clearly, plainly prove that the sitting motion bench "LIED" openly and against all reason, going from the oppositions demand for numbering sub-praragraph to alleging that plaintiff was seeking re-insitution of another suit, which is nowhere to be found in any record.

Plaintiff has been denied due process in all above actions.

Dated: March 26, 1979
New York, N.Y.

Millicent Linden

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT
UNITED STATES COURTHOUSE
FOLEY SQUARE
NEW YORK 10007

Calendar No. 956

FIRM NOTICE

Docket No. 79-7812

Date of Hearing: 3/24/80 Calendar Call: (X) 10:30 AM ( ) 2:00 PM

Re: Millicent Linden v. State of New York

( ) This appeal will be taken on submission.

(X) Oral argument time has been allotted as follows:
5 minutes per side.

QUESTIONS TO BE PRESENTED:

1. Shall a false court order be used to deprive the pro se litigant fundamental civil rights?
2. Is any judge above the law who violates the law?
3. Shall false statement by trial bench be accepted above and against the individual rights?
4. Shall the individual be denied the right to rest the case and denied mistrial becasue of it?
5. Shall the trial bench deny expert witness who does not recongize the difference between a conCAVE and a conVEX curve?
6. Shall the pro se litigant be denied ruling on the issue in the COMPLAINT?
7. Is any court exempt from the law, free to break the law, using its power against the rights of the individual as mandated in the Constitution?
8. Shall the trial bench intimidate the pro se, forma pauperis litigant, physically disabled and faced with semi-starvation protecing original works by devoking the Chief Judge's order to proceed without payment and compelling not only court fees but deposition fees far removed from any ability to meet the cost demanded by the opposition?
9. Has the concept of government by the people, for the people, and of the people been abandoned and ignored in favor of self-interests of judges, lawyers and multi-million-dollar organizations & put above Constitutional rights of the individual?
10. Shall the courts be allowed to heap physical abuse upon Physical injury?-all indivdual rights besacrifised to self-interest,self-protection of judges & lawyers?
11. Shall the courts FORCE the pro se, Forma Pauperis litigant with proven facts of COMPLAINTS to accept injurice denying all recourse - with INTIMIDATION & THREATS?